REMARKS

Claims 1-21 remain pending in this application. Reconsideration is requested.

Reconsideration and withdrawal of the rejection of claims 1-21 under 35 U.S.C. § 112, and the rejection of claims 1-10 and 21 under 35 U.S.C. § 101 is requested in view of the amendments to the claims eliminating any issues of indefiniteness or non-statutory subject matter that may have existed. In particular, claims 1 and 11 have been amended to eliminate the language found objectionable, and claims 1 and 21 have been amended to recite a computer-implemented method (see claims 20-36 of Rickard et al., U.S. Patent No. 6,016,483 relied upon in the § 103 rejection). Accordingly, claims 1-21 fully comply with 35 U.S.C. §§ 101 and 112.

The rejection of claims 1-21 under 35 U.S.C. § 103 as being unpatentable over Rickard et al. is respectfully traversed. Rickard et al. discloses a system for enabling a simultaneous opening of a number of series of options on an options exchange. An option is a contract which conveys to its owner the right to buy or sell a particular stock or security at a specific price on or before a given date. An option series consists of option contracts of the same class (i.e., put or call) having the same strike price and expiration month. For each underlying security, there may be dozens of option series, each of which would be differently priced.

When an option exchange opens, each option series must be initially priced ("opening price"). At the opening, the exchange conducts an opening rotation procedure to determine the opening price for each option. For each series, bid and

offer prices are called out by the corresponding market makers, which converge to an agreed opening price for that series, whereupon all public orders that can be matched at that price are executed. This rotation process may take a significant amount of time, during which the price of the underlying security may change dramatically, resulting in price discrepancies across series.

Rickard discloses a system whereby opening prices for all option series for a given underlying security may be determined simultaneously and thus avoiding the rotation procedure. The system computes a set of opening implied volatilities that represent a compromise between absolute consistency in implied volatility across all series, and satisfaction of market supply and demand for each individual series. From the set of computed implied volatilities, a corresponding opening price is determined for each option series. In this way, the opening prices for all series can be determined simultaneously.

Rickard is not concerned with obtaining a selected price at which to conduct a batch auction of a financial security, as disclosed and claimed in the present application. First, options are not securities, but instead are contracts conveying the right to buy or sell underlying securities at an agreed upon price before a given date. Second, Rickard does not disclose a method of determining a single price at which to conduct a batch auction, according to the existence or non-existence of intersecting priced orders as set forth in claims 1, 11 and 21. At column 9, lines 33-47, Rickard discloses a method by which each series can open indep ndently using a single

opening price call based on supply and demand, referencing PCT application No. PCT/US96/07265, which corresponds to U.S. Patent No. 6,012,046 to Lupien et al., cited in an IDS filed in the present application and explained in the specification at page 3. The Rickard/Lupien method of price discovery is based on a two-dimensional relative satisfaction index that uses a weighted volume as a measure of maximization.

Contrary to the position of the Office action, calculation of an imbalance ratio to determine a selected price at which to conduct a batch auction of a security is not taught by the prior art and cannot be supplied by taking "official notice." The Examiner is requested to produce evidence that such feature constitutes statutory prior art. See MPEP § 2144.03 C. Similarly, the prior art of record fails to disclose or suggest the specific features of claims 2-10 and 12-20, such that it is improper to rely on "official notice" in support of a conclusion of obviousness where no prior art evidence has been produced to support such conclusion. Per MPEP § 2144.03, the Examiner is requested to produce documentary prior art to support the conclusion of obviousness.

In view of the foregoing, favorable reconsideration of this application, withdrawal of all outstanding grounds of rejection, and the issuance of a Notice of Allowance are earnestly solicited.

Please charge any fee or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Deposit Account No. 02-2135.

Respectfully submitted,

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